

## **ISSUE**

Does SDCL ch. 36-10 permit a physical therapist to develop a plan of care for physical therapy services without a referral from the patient's physician?

## **FINDINGS OF FACT**

1. 42 CFR § 483 contains the requirements that an institution must meet to qualify to participate as a skilled nursing facility ("SNF") in the Medicare program, and as a nursing facility in the Medicaid program.
2. 42 CFR § 483.65 provides that if physical therapy services are required in a SNF resident's comprehensive plan of care, the services must be provided by qualified personnel under the written order of a physician.
3. 42 CFR § 483.30(e)(3) permits the attending physician of a SNF resident to delegate to a qualified therapist under § 483.65 the task of writing therapy orders, to the extent that the therapist is permitted to do so under state law.
4. A person licensed as a physical therapist under SDCL ch. 36-10 is qualified to practice physical therapy in the State of South Dakota.
5. SDCL § 36-10-18.1 defines the practice of physical therapy as follows:

[T]he examination and evaluation of patients with mechanical, physiological, and developmental impairments, functional limitation, and disability or other similar conditions in order to determine a diagnosis, prognosis, and therapeutic intervention; alleviation of impairments and functional limitations by designing, implementing, and modifying therapeutic interventions that include therapeutic exercise, functional training in community or work reintegration, manual therapy techniques including soft tissue and joint mobilization, assistive and adaptive devices and equipment, brochopulmonary hygiene, debridement and wound care, physical agents and mechanical modalities, therapeutic massage, electrotherapeutic modalities, and patient-related instruction; prevention of injury, impairments, functional limitations, and disability including the promotion and maintenance of fitness, health, and quality of life in all age populations; and consultation, education, and research.
6. In 1986, the South Dakota Legislature repealed SDCL § 36-10-35 which prohibited physical therapists from providing physical therapy services without the referral and supervision of a physician.
7. A physical therapist licensed under SDCL ch. 36-10 may develop a plan of care for physical therapy services, including diagnoses, long-term treatment goals, and the type, quantity, duration, and frequency of therapy services.

8. Nothing in SDCL ch. 36-10 requires a licensed physical therapist to provide physical therapy services under the direction or supervision of a physician.

Based on these findings of fact, the Board enters the following:

**Conclusions of Law**

1. The Board has jurisdiction over matter pertaining to the licensure, practice and discipline of persons practicing physical therapy in South Dakota.
2. The Board has the authority to issue declaratory rulings regarding the applicability and interpretation of the provisions of SDCL ch. 36-10.
3. SDCL ch. 36-10 permits licensed physical therapists to develop a plan of care for physical therapy services without a referral from the patient's physician.